

### **REMARKS**

In this Amendment, Applicant has amended Claims 2 – 4 to proper dependent form and corrected certain informalities, and added Claims 6 – 12 to specify different embodiments of the present invention. It is respectfully submitted that no new matter has been introduced by the amended and added claims. All claims are now present for examination and favorable reconsideration is respectfully requested in view of the preceding amendments and the following comments.

#### **CLAIM OBJECTIONS:**

Claim 4 has been objected as containing informalities.

It is respectfully submitted that the objection has been overcome by the current amendment. More specifically, Claim 4 has been amended to delete the term “at least” and added “time” after “first” on line 6. Therefore the objection has been overcome and withdraw of the objection is requested.

#### **REJECTIONS UNDER 35 U.S.C. § 102:**

Claims 1 – 5 have been rejected under 35 U.S.C. § 102 (e) as allegedly being anticipated by Bush, Jr. (US 6,486,899), hereinafter Bush.

Applicant traverses the rejection and respectfully submits that the presently claimed invention is not anticipated by the cited reference. Especially, Applicant respectfully submits that the Examiner has misconstrued the present invention as defined and the prior art reference to equate the Bush reference with the present invention that is very different in nature from the Bush reference.

The present invention is directed to an instrument for evaluating supply chain performance in transport logistics. It is a diagnostic tool in which inputs are introduced on a chain-wide basis such that the result of the instrument is a direct indication of the efficiency of the supply chain. Such an instrument has to account for the very different focus of each of the parties within the supply chain to determine and evaluate the users performance within the chain. The division of the chain into different sets of parameters and the parameters themselves have to be theoretically derived and empirically tested to ensure that they provide a comprehensive reflection of the supply chain performance.

In contrast, the Bush reference cited by the Examiner is purely a display mechanism to show the interaction between supply chain entities and to display parameters that have been chosen purely as a hypothetical example of parameters that may be desirable to display. However, the Bush reference does not disclose any attempt to actually provide an evaluation instrument. Applicant respectfully directs the Examiner's attention to lines 8 – 15 of column 2 of the Bush reference. Applicant respectfully submits that the cited section highlights the difference between the present invention and the Bush reference. In the cited section, it is stated that “[U]sing the display logistics information, a supply chain planner can evaluate the performance of an existing or simulated supply chain. By viewing logistics information for the supply chain over several time periods, a user can discover logistical problems that may have remained undetected.” Obviously, this passage only discloses a display system. It is assumed that a system planner provides all the evaluation steps. To provide any meaningful evaluation, it is necessary to view the displayed information over several time periods such that the user may then apply their own skills in evaluation to try to detect problems. There is no suggestion or guidance in this reference as to what in particular should be considered in this evaluation step or how this may affect other aspects or entities in the supply chain. All of this is supposed to be supplied by the user with the Bush reference being no more than a computer program and interface to display parameters selected by a user. The entire inputs, outputs and processing of information are not disclosed in this reference. Instead, it merely provides a visualization of a hypothetical supply chain with the user themselves to determine what should specifically be displayed.

Applicant respectfully submits that the disclosure in Bush reference is far from the evaluation instrument itself as defined in the present invention. Applicant respectfully disagrees with the Examiner's assessment that the Bush reference in any way teaches the present invention as claimed because what is disclosed in the Bush reference is not an evaluation instrument at all, but merely an information display. The disclosure in Bush reference does not include measurement items at all. Instead, it assumes that all information is already provided and rather than seeking to measure anything. It just displays whatever information from whatever source happened to be supplied by a user. It has the shortcomings that the present invention intends to overcome, which is the fact that a user will be focused on information relating to their own organization, which gives no chain-wide objective evaluation to a user. Because the present invention as claimed evaluates not on random parameters selected by the user but an empirically tested set of parameters, the present invention ensures an objectivity in the evaluation that cannot be replicated by a display system in which all the parameters and the evaluation itself is for a subject user to determine.

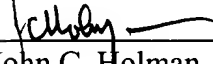
Therefore, the newly presented claims are not anticipated by the Bush reference and the rejection under 35 U.S.C. § 102 (e) has been overcome. Accordingly, withdrawal of the rejection under 35 U.S.C. § 102 (e) is respectfully requested.

Having overcome all outstanding grounds of rejection, the application is now in condition for allowance, and prompt action toward that end is respectfully solicited.

Respectfully submitted,

JACOBSON HOLMAN PLLC

Date: June 13, 2005  
(202) 638-6666  
400 Seventh Street, N.W.  
Washington, D.C. 20004  
Atty. Dkt. No.: P69237US0

By   
John C. Holman  
Registration No. 22,769